V. Claims 28, 29, 32 and 33, drawn to methods for activating or augmenting the immune response, classified in class 435, subclasses 326, 328 and 330 and in class 514, subclass 2.

VI. Claims 30-33, drawn to methods for the treatment or prevention of an immune disorder, classified in class 435, subclasses 326, 328 and 330 and in class 514, subclass 2.

VII. Claim 35, drawn to transgenic animals, classified in class 800, subclasses 8, 10,13 and 295.

The Examiner contends that each of the above groups of claims are distinct.

In response, Applicants hereby provisionally elect to prosecute the claims of Group I, namely claims 1-9 and 34 drawn to antibodies, protein fragments of antibodies and fusion proteins of antibodies, classified in class 530, subclasses 387.1, 387.3, 387.7 and 387.9, with traversal.

With respect to the Examiner's division of the invention into seven groups and the reasons stated therefor, Applicants respectfully traverse. Even assuming, *arguendo*, that Groups I - VII represent distinct or independent inventions, Applicants submit that to search and examine the subject matter of all the Groups together would not be a serious burden on the Examiner. In particular, claims directed to antibodies and protein fragments and fusion proteins thereof ("anti-CD40 molecules"; Group I) and pharmaceutical compositions comprising said molecules (Group III), should be examined collectively.

The M.P.E.P. § 803 (Seventh Edition, July 1998) states:

> If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Section 803 further states that if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

As the Examiner acknowledges, the claims of Groups I and III are interrelated. With respect to Groups I and III, the Examiner contends that, although related as product and process of use, the inventions are distinct because the product can be used in another process, namely for the purification of CD40. Applicants respectfully assert that the subject matter of Groups I and III is so intertwined that a single search would identify any relevant art

pertaining to anti-CD40 molecules and pharmaceutical compositions comprising the anti-CD40 molecules of the invention, given that the anti-CD40 molecules represent elements that are common to both groups. Thus, in view of M.P.E.P. § 803, the claims of Groups I and III should be searched and examined in the subject application. Accordingly, Applicants respectfully request that the Restriction Requirement Under 35 U.S.C. § 121 be modified such that claims 1-9, 21-25, 34 and 36 are examined in one application. Applicants reserve the right to petition from the Restriction Requirement under 37 C.F.R. § 1.144.

Applicants respectfully request that the above-made remarks be entered and made of record in the file history of the present application. The Examiner is invited to contact the undersigned with any questions concerning the foregoing.

Respectfully submitted,

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